

Apph. No.: 10/825,512
Docket No.: 14XT128812/GEM-0155

Remarks / Arguments

The claims stand restricted as follows:

- I. Claims 1-60, allegedly drawn to a device of mounting a rotating ring, classified in class 464, subclass 78.
- II. Claims 61-95, allegedly drawn to a method for making a diabolo, classified in class 72, subclass 362.

Applicant hereby elects Group I, Claims 1-60, *with traverse*, respectfully traversing the Election / Restriction requirement for the following reasons.

If the search and examination of an entire application can be made *without serious burden*, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. MPEP 803. (Emphasis added).

The Examiner alleges that in the instant case the product made could be made without twisting or deforming, but instead by cutting, and that the search required for Group II is not required for Group I. Paper 20051103, page 2.

Applicant respectfully submits that in Claim 1 of Group I, the invention is directed to, *inter alia*, "...a diabolo shape generated by a revolution about an axis of the shaft", which goes to a structural attribute of the product made. Here, a structural attribute of the product results from the diabolo shape being generated by a revolution about an axis of the shaft.

From the foregoing, it appears then that the Examiner will be required to perform some degree of searching in the area of a diabolo shape being generated by a revolution about an axis of the shaft. Thus, a search of Group I is seen to overlap the invention of Group II. Accordingly, Applicant submits that a search and examination of the entire application can be made *without serious burden* to the Examiner.

Absent a serious burden to the Examiner, Applicant submits that under MPEP 803, the Examiner must examine the entire application on the merits, even though it includes claims to independent or distinct inventions.

Accordingly, Applicant submits that restriction of Groups I and II for examination purposes is improper.

For at least this reason, the Restriction Requirement dated November 8, 2005, is wholeheartedly traversed, and removal of the Requirement, at least with respect to the improper groupings noted above, is respectfully requested. As always, the Examiner is cordially invited to contact the undersigned by telephone to resolve any issues that remain.

Appln. No.: 10/825,512
Docket No.: 14XT128812/GEM-0155

Consideration and allowance of these claims are respectfully requested. The foregoing is believed to be fully responsive to this office action.

If there are any charges with respect to this amendment, or otherwise, please charge them to Deposit Account No. 50-2513 maintained by applicant's attorneys.

Respectfully submitted,
CANTOR COLBURN LLP
Applicant's Attorneys

By: 

David Arnold
Registration No: 48,894
Customer No. 23413

Address: 55 Griffin Road South, Bloomfield, Connecticut 06002
Telephone: (860) 286-2929
Fax: (860) 286-0115